

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:05-00242-02

BRANDON E. PISTORE

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On May 13, 2011, the United States of America appeared by Meredith R. George, Assistant United States Attorney, and the defendant, Brandon E. Pistore, appeared in person and by his counsel, Lex A. Coleman, Assistant Federal Public Defender, for a hearing on the petition on supervised release and amendment thereto submitted by Supervising United States Probation Officer Keith E. Zutaut, the defendant having commenced a five-year term of supervised release in this action on January 30, 2009, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on June 22, 2006.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant failed to submit monthly reports for August, September, October and November 2009; (2) that the defendant failed to maintain meaningful employment from the time of his release from custody on January 30, 2009, until the filing of the petition on December 29, 2009; (3) that the defendant used methamphetamine at least from the first of August 2009 through December 22, 2009, as evidenced by his admission to the probation officer on August 17, 2009, that he had been using methamphetamine for approximately two weeks, a positive urine specimen provided by him on September 22, 2009, together further with his admission to the probation officer on December 10, 2009, that he had used methamphetamine that day and for approximately eight days prior to that date and his admission to the probation officer on December 22, 2009, that he had used methamphetamine as recently as December 20, 2009; and (4) that the defendant failed to abide by the special condition that he spend a period of six months at Dismas Charities inasmuch as he was terminated from the program after approximately four months for failing to abide by the rules and regulations but was

permitted to re-enter the program on December 30, 2010, to complete the original six-month term but was again terminated from the program on March 4, 2011, for failing to abide by the facility's rules and regulations; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release and amendment thereto.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

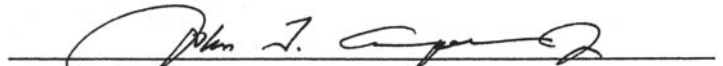
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the

United States Bureau of Prisons for imprisonment for a period of SIX (6) MONTHS, to be followed by a term of fifty-four (54) months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he participate in the twelve-week LEARN program in Beckley, West Virginia, which shall commence as soon as he is released or as immediately thereafter as the program is prepared to accept him. The defendant shall follow the rules and regulations of the program.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: May 23, 2011


John T. Copenhaver, Jr.
United States District Judge